



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,566	05/19/2005	Norio Okada	ARI-38267	7694
116 7590 03/19/2008 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108				
EXAMINER TORRES, MARCOS L				
ART UNIT 2617		PAPER NUMBER		
MAIL DATE 03/19/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/535,566

Applicant(s)

OKADA ET AL.

Examiner

MARCOS L. TORRES

Art Unit

2617

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4, 6-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 6 and 7 is/are rejected.
- 7) ☒ Claim(s) 8 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12-21-07 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1 and 4 have been considered but are moot in view of the new ground(s) of rejection.
3. Applicant arguments that Shibata fails to disclose the limitations of the claim, however applicant fails to support their argument because there is no explanation why the rotation axis of Shibata cannot be equated to the present application. According to the specification of the present application the mobile communication apparatus have longitudinal axis direction from the displaying means (see par. 0006, abstract). The rotation means 32 of Shibata apparatus have longitudinal axis direction from the displaying means (see fig. 1, 3, 9), thereby read on all the limitations of the present application.
4. Regarding applicant's argument directed to the secondary reference Bum, they are moot since the rejection did not rely on that reference for supposed missing teachings. Please see Shibata recited section for those teachings.

5. As to applicant's arguments directed to the advantage effects (i) to (iii), it is noted that those effects (such as specific degrees, etc) are not being claimed in the present application.
6. Also after further examination of the Shimano reference, the examiner found that the reference recite that the axial state sensor (55) does detect angle and direction of the rotation (see par. 0242, 0214).
7. The rest of the arguments they fall together for the same reasons as shown above.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Shibata 20010004269.

As to claim 1, Shibata discloses a mobile communication apparatus having a longitudinal axis (see fig. 1, 3, 9 item 32), and having operation modes, comprising: first (20) and second (10) housings each having front and rear surfaces and a rotation axis located between said front and rear surfaces (see fig.1, 3, 9), displaying means displaying provided on said front surface of said first housing (see fig. 1, 3, 9, item 21), and adapted to display image data or character data on a screen (see par. 0205); operating means provided on said front surface of said second housing, and having a

Art Unit: 2617

plurality of keys to be selectively operated by a user (see fig. 9, item 17); rotating means (32) for connecting said first housing with said second housing, and to allow said first and second housings to be rotated with respect to each other under the condition that said rotation axis of each of said first and second housings is axially aligned with said longitudinal axis [of the display] (see fig. 1, 3, 9, item 32; par. 205); rotation angle detecting means (55) for detecting a rotation angle and rotation direction of one of said first and second housings with respect to the other of said first and second housings when said first and second housings are rotated with respect to each other (see par. 0242, 0214); and setting means for selecting, from among said operation modes, an operation mode corresponding to the combination of said rotation angle detected by said rotation angle detecting means, and setting said selected operation mode to ensure that said mobile communication apparatus assumes said selected operation mode (see par. 0239-0247).

As to claim 4, Shibata discloses a mobile communication in which said rotating means includes a rotation shaft provided in one of said first and second housings, and a retaining unit provided in the other of said housings to allow said rotation shaft to be rotatable around its rotation axis axially aligned with said longitudinal axis [of the display] (see fig. 1, item 32).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 2617

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

13. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shibata in view of Wada 6965413.

As to claim 6, Shibata discloses a mobile communication apparatus, which further comprises a camera unit (33) provided on a side surface of said second housing (see fig. 3, items 10, 33), said camera unit having a direction opposite to the direction of said screen of said displaying means, and in which said operation modes includes a camera mode, said setting means is operative to set said camera mode when said

combination of said rotation angle and rotation direction detected by said rotation angle detecting means corresponds to said camera mode (see fig. 2, 3, item 33; par. 0210, 0214, 0225, 0136-0137). In Shibata the location of the lens "camera unit" is on the side of the second housing rather than the rear of the housing. In an analogous reference, Wada discloses the same rotation mechanism (see fig. 4, items axis B) of the present application and also have the camera in the same position in the back of the second housing (see fig. 2a-c, 5a-b). Therefore it would have been obvious to one of the ordinary skill in the art to place the camera in the second housing for the simple purpose of permitting the user to take a picture of himself or herself as well as a picture of an outside object by rotating the camera with respect to the display (see col. 1, line 49 –col. 2, line 3).

14. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shibata in view Wada as applied to claim 6 above, and further in view of Prior 6681124.

As to claim 7, Shibata discloses a mobile communication apparatus, which has additional operation modes additional functions in each operation mode (see par. 0210-0225), said sub-operating unit having a plurality of keys (dial 34 and button 11) to be selectively operated by said user, said mobile communication apparatus is operative to selectively perform said additional functions when said keys of said sub-operating unit are operated by said user (see fig. 3, items 11,34; par. 0204-0206). Shibata sub-operating means is located in the side of the device rather than the rear of the device. In an analogous art, Prior disclose said sub-operating unit having a plurality of keys to be selectively operated by said user, said mobile communication apparatus is operative to

Art Unit: 2617

selectively perform said additional functions when said keys of said sub-operating unit are operated by said user and further comprises sub-operating means unit provided on said rear surface of said second housing (see fig. 6-11; col. 4, line 60- col. 5, line 45, showing the front and rear of the device with each operating and sub-operating means). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to put a secondary keypad to give easy access to particular functions to the user with a single hand (see col. 1, lines 21-26).

15. Claims 1 and 4 rejected under 35 U.S.C. 103(a) as being unpatentable over Kfoury 6549789 in view of Bum 7200423.

As to claim 1, Kfoury discloses a mobile communication apparatus having a longitudinal axis (see fig. 4 and 8), and having operation modes, comprising: first (204) and second (202) housings each having front and rear surfaces and a rotation axis located between said front and rear surfaces (see fig.2), displaying means displaying provided on said front surface of said first housing (see fig. 2, item 212), and adapted to display image data or character data on a screen (see col. 7, lines 49-58); operating means provided on said front surface of said second housing, and having a plurality of keys to be selectively operated by a user (see fig. 2, item 208); rotating means (214) for connecting said first housing with said second housing, and to allow said first and second housings to be rotated with respect to each other under the condition that said rotation axis of each of said first and second housings is axially aligned with said longitudinal axis (see fig. 2, item 214, fig 4); rotation angle detecting means (135) for detecting a rotation angle of one of said first and second housings with respect to the

other of said first and second housings when said first and second housings are rotated with respect to each other (see fig. 1, item 135; col. 4, 29-32); and setting means for selecting, from among said operation modes, an operation mode corresponding to the combination of said rotation angle detected by said rotation angle detecting means, and setting said selected operation mode to ensure that said mobile communication apparatus assumes said selected operation mode (see col. 5, lines 13-64; col. 6, line 66 – col. 7, line 13). Kfoury does not specifically disclose detecting directions of rotation. In an analogous art, Bum discloses detecting direction of rotation (see col. 3, lines 13-53). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to detect the direction of rotation for the simple purpose of setting the correct operating mode according to the rotation (for example the correct displaying side). (Note: according to the specification the axis is longitudinal with respect to the display, however claims does not set a reference point and limitations from the specification are not being read into the claim.)

As to claim 4, Kfoury discloses a mobile communication in which said rotating means includes a rotation shaft provided in one of said first and second housings, and a retaining unit provided in the other of said housings to allow said rotation shaft to be rotatable around its rotation axis axially aligned with said longitudinal axis (see fig. 4).

Allowable Subject Matter

16. Claims 8-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 2617

17. The following is a statement of reasons for the indication of allowable subject matter:

18. A mobile communication apparatus as set forth in claim 1, in which said operation modes includes a television mode, said mobile communication apparatus is operative to turn the channel on the basis of the combination of said rotation angle and rotation direction detected by said rotation angle detecting means when said first and second housings are further rotated with respect to each other under the condition that said mobile communication apparatus is in said television mode.

19. A mobile communication apparatus as set forth in claim 1, in which said operation modes includes a volume adjusting mode, said mobile communication apparatus is operative to change the volume on the basis of the combination of said rotation angle and rotation direction detected by said rotation angle detecting means when said first and second housings are further rotated with respect to each other in said volume adjusting mode. The above limitation have not been found or fairly suggested in the prior art search.

Conclusion

Any response to this Office Action should be mailed to:

U.S. Patent and Trademark Office
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Or faxed to:

571-273-8300

Art Unit: 2617

for formal communication intended for entry, informal communication or draft communication; in the case of informal or draft communication, please label "PROPOSED" or "DRAFT"

Hand delivered responses should be brought to:

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARCOS L. TORRES whose telephone number is (571)272-7926. The examiner can normally be reached on 9:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-252-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George Eng/
Supervisory Patent Examiner, Art
Unit 2617

Art Unit: 2617

/mlt/

mlt